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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/972,477	11/18/97	HAYNES	J C196.012-006

12

QM02/1103

ROBERT J. SCHAAF  
21241 VENTURA BOULEVARD  
SUITE 188  
WOODLAND HILLS CA 91364

EXAMINER

KAUFMAN, J

ART UNIT	PAPER NUMBER
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3754

15

DATE MAILED: 11/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/972,477

Applicant(s)  
Haynes

Examiner  
Joseph A. Kaufman

Group Art Unit  
3754



☒ Responsive to communication(s) filed on Aug 9, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-26 and 31-55 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-8, 19-26, 31, 32, and 41-47 is/are allowed.

☒ Claim(s) 9-18, 33-40, 48, 49, and 51-55 is/are rejected.

☒ Claim(s) 50 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9-18, 33-40 and 51-55 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claim 9, page 3 of the amendment, line 6, the completely liquid driven control has not been described in the disclosure. Further, the solenoid that starts the system seems to contradict this feature as discussed in column 5, lines 29-33.

In claim 33, page 9 of the amendment, line 13, the completely liquid driven control piston has not been described in the disclosure. Further, the solenoid that starts the system seems to contradict this feature as discussed in column 5, lines 29-33.

In claims 51 and 54, the floating piston being non-biases has not been adequately described or shown in the specification or drawings.

In claims 52 and 55, there is no air gap shown or discussed in the specification or drawings.

3. Claims 9-18, 48 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 9, page 3 of the amendment, line 9, there is a lack of antecedent basis for the control piston.

Claim 48 recites a second fluid control system on line 3. Claim 45 recites a second fluid liquid control. It appears they are the same structure and, therefore, claim 48 unduly repeats the subject matter of claim 45 and double includes its features.

Claim 53 is a duplicate of claim 51 from which it depends.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 49 is rejected under 35 U.S.C. 102(b) as being anticipated by Credle, Jr.

Credle, Jr. shows a nozzle 88; soda inlet 82 connected to a soda source; syrup inlet 84; syrup source 16, 18 or 20; piston 40; piston chamber having soda section 48 and 50 and syrup section 44 and 46; second piston 42; soda drive control 92, 94 comprising first and second inlet and outlet valves; demand regulators 96 and 98 also being first and second syrup inlet and outlet valves; and the on/off control is inherent.

6. Claim 50 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-8, 19-26, 31, 32 and 41-47 are allowed.

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8. Claim 48 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

9. Applicant's arguments with respect to claims 9-18 and 33-40 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

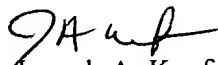
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (703) 308-0266.

Papers relating to this application may be submitted to Group 3700 by facsimile transmission. Papers should be faxed to Group 3700 via the PTO Fax Center located in Crystal Plaza Building 2, Arlington, Virginia. The submission of such papers by facsimile transmission

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must comply with the Notice published in the Official Gazette, **1096 OG 30** (November 15, 1989). The CP-2 Fax Center number is (703) 305-3588.

jak  
November 3, 2000

  
Joseph A. Kaufman  
Primary Examiner  
Group 3700  
11/3/00